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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)		Docket Number (Optional) A882688US
First Named Inventor: Thomas H. Stockmann		Art Unit: 3652
Application Number: 09/873,243		Examiner: Thuy Van Tran
Filed: June 5, 2001		
Title: HYDRAULIC PLATFORM LIFT INCORPORATING POSITIVE DISPLACEMENT VALVE, AND POSITIVE DISPLACEMENT VALVE FOR HYDRAULIC PLATFORM LIFT		
Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450		
NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282		
The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.		
APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.		
NOTE: A grantable petition requires the following items:		
(1) Petition fee.		
(2) Reply and/or issue fee		
(3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications, and		
(4) Adequate showing of the cause of unavoidable delay		
1. Petition fee		
<input checked="" type="checkbox"/> Small entry - fee \$ 55.00 (37 CFR 1.17(I)). Applicant claims small entry status. See 37 CFR 1.27.		
<input type="checkbox"/> Other than small entry - fee \$ _____ (37 CFR 1.17(I)).		
2. Reply and/or fee		
A The reply and/or fee to the above-noted Office action in the form of Response to Office Action (Identify the type of reply)		
<input type="checkbox"/> has been filed previously on _____		
<input checked="" type="checkbox"/> is enclosed herewith.		
B The issue fee of \$ _____		
<input type="checkbox"/> has been filed previously on _____		
<input type="checkbox"/> is enclosed herewith.		

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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UNAVOIDABLY UNDER 37 CFR 1.137(a)**

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

D. Doak Horne
Signature

Dec. 8, 2004
Date

D. Doak Horne

Typed or printed name

33,105

Registration Number, if applicable

Suite 1400, 700 - 2nd Street S.W.

Address

(403) 298-1994

Telephone Number

Calgary, Alberta, Canada T2P 4V5

Address

- Enclosure ☒ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☒ Additional sheets containing statements establishing unavoidable delay
- ☐ _____

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

- ☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

Date

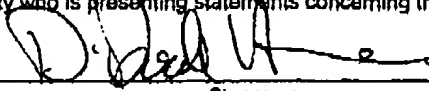
Signature

Typed or printed name of person signing certificate

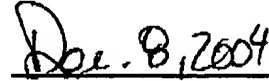
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NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.



Signature



Date

D. Doak Horne

Typed or printed name

33,105

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

Please see attached sheet regarding reasons for unavoidably delay,
in detail.

(Please attach additional sheets if additional space is needed.)

I received the Examiner's Detailed Action dated February 21, 2003, advising that the previous Response filed October 29, 2002 was non-responsive due to failure to elect.

Upon review of such Office Action, I noted that the Examiner's allegation that the applicant had not previously elected was completely unfounded – the Applicant's election having already originally been made in the Applicant's response filed October 29, 2002 (copy attached) where it is clearly stated (see bottom of page 4 and top of page 5) as follows:

"While it is submitted that the above amendments are sufficient to overcome the examiner's election requirements, pursuant to 37 C.F.R. 1.143, in the event the examiner should refuse to withdraw the election requirement, the Applicant elects, on a without-prejudice basis, claims 13-20 for further prosecution."

I called Examiner Tran on March 11, 2003, as I believed the Action was issued in error. Mr. Tran agreed that the Action requiring restriction was in error, and also agreed to examine ALL claims to see if restriction is still needed. If not, he would submit an Action on ALL claims. In this response, I enclose, for your review, a copy of my memo-to-file and hand written note from which the memo-to-file was prepared, which I made immediately after speaking to Examiner Tran on Tuesday, March 11, 2003.

In view of the above and in view of Examiner Tran's statement to me, I did not believe that I needed to respond to the Action dated February 21, 2003. It was not until October 6, 2003 when I received an Abandonment notice that I was informed that a response to the Action dated February 21, 2003 should have been filed.

Thereafter, I submitted on November 4, 2003 a Petition to Revive, on the basis that same was unavoidable. Enclosed with same was the response of October 29, 2002.

The Petition was dismissed on November 4, 2004 (a notice of which was received November 23, 2004), on the basis that the response of October 29, 2002 was non-responsive, as not including a copy of the amended claims, and that the Voluntary Amendment submitted May 11, 2004 did not likewise re-iterate the election.

After discussion with Supervisory Examiner Eileen Lillis on November 24, 2004, this renewed Petition to Re-instate was filed, with ¹a copy of amended claims, ²a notice of the election, and ³an advisal that the amended claims all read on the election submitted on claims 13-20.

In view of the above, the "delay" in responding to the Action dated February 21, 2003 was unavoidable.

DATED at Calgary, Alberta, this 8th day of December, 2004.


D. Doak Home
Registration No. 33, 105